

Memorandum

Date: December 5, 2006

To: Mr. Stan Dixon, President
State Board of Forestry and Fire Protection

From: Mr. John McCamman, Chief Deputy Director
Department of Fish and Game

Subject: Status of Department of Fish and Game Incidental Take Permit Guidelines for
Timber Operations

In conjunction with the November 30, 2006 pleading version of "Minimization and Mitigation Measures for Timber Operations in Watersheds with Listed Anadromous Salmonids" which are now before you, the Department of Fish and Game (Department) has prepared the subject draft regulations.

The Department's regulations are in response to policy direction provided by the Fish and Game Commission in February 2004 to prepare regulations for incidental take permitting for coho salmon, specifically for timber management. These regulations describe procedures to be followed by the Department in determining if incidental take of coho salmon may result from timber operations. If the Department makes such a determination and it is not possible to modify operations to avoid incidental take, several alternative permitting approaches are described. One of these is a streamlined "self-certification" option which may be followed if the timber harvesting plan incorporates measures specified in the November 30, 2006 pleading. These measures, with some recent modifications for Class II watercourses, road surface standards and timing of road construction operations, are largely unchanged from those described to members of the Board of Forestry since August of this year.

The Department commenced this process by drafting regulations to include procedures for implementing requirements of the California Endangered Species Act (CESA) and specific forest practice prescriptions which, in combination with the existing Forest Practice Rules and Threatened and Impaired Watershed Rules are intended to meet the issuance criteria specified in CESA. At the direction of Resources Secretary Mike Chrisman this approach was modified, in collaboration with the Department of Forestry and Fire Protection and California Geological Survey. The result is a strategy which incorporates additional measures necessary to meet CESA incidental take permit issuance criteria into the Forest Practice Rules. The

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Department's regulations will cite specific sections of the Forest Practice Rules to be followed, particularly for purposes of the self-certification process. In accordance with CESA, financial security must be placed with the Department when an incidental take permit is issued and the Department's regulations include proposed procedures for this requirement.

The approach described above relies upon rulemaking actions by both the Board of Forestry and Department. We have not yet prepared a schedule to implement the Department's regulations. Contingent upon action by the Board of Forestry to adopt regulations containing measures sufficient to meet CESA issuance criteria, we are optimistic that we can complete the Department's rulemaking procedures before the end of 2007.

Department staff will be available at your meeting of December 6, 2006 to explain this proposal and answer any questions you may have.

JM:MS:jo